



Appellant's Appeal Brief
Applicants: De Baan, Uittenbogaard, Coulomb
Attorney Docket No.: 12522.0102 USPT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application/Serial No. : 10/759,651
Applicants : Jaap de Baan
Ries Uittenbogaard
Louis Coulomb
Application Filing Date : January 16, 2004
Title : CATENARY ANCHOR LEG MOORING SYSTEM
TC/A.U. : 3617
Examiner : Jesus D. Sotelo
Docket No. : 12522.0102 USPT

TO: Commissioner for Patents
P.O. Box 1450
Alexandra, VA 22313-1450

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

The U.S. Patent and Trademark Office has indicated that the Appeal Brief filed in the referenced patent application on February 15, 2006 is defective for failure to comply with 37 CFR 41.37(c)(i)(vii). Specifically, the brief does present an argument under a separate heading for each ground of rejection on appeal. More particularly, it has been indicated that this section should include a separate heading for each grounds (sic) of rejection listed in Section VI. It may include headings for claims argued separately. The brief should also include the status and references with respect to the grounds of rejection presented.

Included herewith is a Change of Address request.

RESPONSE TO OBJECTION

The section of the Appeal Brief entitled Argument has been amended to include a separate heading for each ground of rejection listed in Section VI and to clarify those arguments already stated. No new grounds of argument have been added.

The amended Argument section of the appeal brief is reproduced below.

Argument (37 CFR 41.37(c)(1)(vii))

Rejection of Claim 1 under 35 USC 102 (Issue No. 1)

The position of the applicant is that the Corona '589 reference which forms the basis of the rejection under 35 USC 102 neither teaches nor anticipates a continuously floating buoy which is constructed to minimize natural pitch and roll periods while the buoy is floating on the sea surface. Rather, it is the position of the appellant that the Corona '589 reference teaches a buoy which simply avoids the problem of dealing with wind and wave forces by going underwater.

Accordingly, the appellant believes that the interpretation of the teachings of the Corona '589 reference by the U.S. Patent and Trademark Office is in error. The inventors named in the instant application discovered that the problem of dealing with wind and wave forces could be confronted with a structural design solution rather than with a solution which allowed the buoy to remain on the sea surface treating the buoy like a submarine; that is going up and down by the filling and the emptying of floatation compartments. Thus, the instant pending patent application teaches an approaching to dealing with wind and wave forces and found in the Corona '589 reference.

35 U.S.C. 102 anticipation requires identity of invention. Specifically, the claimed invention, as described in appropriately construed claims, must be the same as that of a cited reference in order for the cited reference to anticipate the claimed invention. Glaverbel Société Anonyme v. Northlake Marketing & Supply, Inc., 45 F.3d 1550, 1554, 33 U.S.P.Q.2d 1496, 1498 (Fed. Cir. 1995).

A close reading of the Corona '589 reference reveals that the prior art solution to the problem of reducing the pitching and rolling of the floating buoy is to cause the entire buoy to move underwater below the sea surface in rough wind and sea conditions. Such movement of the buoy below the sea surface takes the buoy taught by the Corona '589 reference out of service. Specifically, the following extracts from the Corona '589 reference teach the up-and-down (floating-submerged) motion of the buoy described in the Corona '589 reference. This up and down motion of the buoy does not anticipate the elements which appear in claim 1 of the instant application. Key words appear in italics.

“The body 26 has a *controllable buoyancy*, as will be described in further detail herein....” (col. 3, lines 41-42)

“Figure 2 shows the buoy 16 in an *alternate submerged* position, as indicated by the dashed lines, when not in use and in severe sea state conditions, ice accumulation and ice movement are experienced in the anchorage 10.” (col. 4, lines 3-7)

“Operation of the buoy 16 to *move between a floating and submerged condition* as carried out by a combined operation of floating suitable ballast compartments within the buoy....” (col. 4, lines 30-33)

“Suitable controls, not shown, may be operated to control the flooding of tanks or compartments 168, 170, 172 and 174 as well as additional ballast tanks 160, 162 and 166, if needed, to control the buoyancy and stability of the buoy 16 as it *moves between a working position on the surface 17 and the submerged position.*” (col. 7, lines 35-42)

In pending independent claim 1 in the instant application, the continuously floating buoy is described as being “non-submersible.” The Corona ‘589 reference teaches a buoy which is taken out of service to a submerged location beneath the sea surface whenever rough wind and sea conditions occur.

Further in pending independent claim 1, the buoy is described as being constructed “for continuous flotation” on the sea surface. The Corona ‘589 reference teaches a buoy designed for intermittent flotation on the sea surface.

The limitations of being “non-submersible” and designed “for continuous flotation” on the sea surface are not described in the Corona ‘589 prior art reference relied upon to reject the pending claims. Accordingly, because claim 1 describes a buoy which continuously floats on the sea surface and does not use submersion as the technique for reducing pitch and roll, claim 1 is not anticipated by the Corona ‘589 reference, as the claimed invention is not the same as the buoy taught by the Corona ‘589 reference.

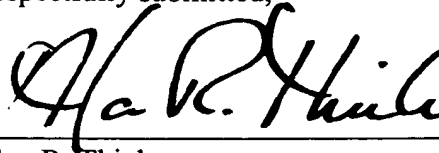
Rejection of Claims 2, 4, and 5 under 35 USC 103 (Issue No. 2)

Regarding claims 2, 4, and 5, it is the position of the applicant that the Corona '589 primary reference does not provide a proper starting place to begin building a set of references to reject claims 2, 4, and 5 as being taught by a combination of the Corona '589 (primary) reference with the Grundy et al. '525 (secondary) reference. The reasons for this argument are set forth above with regard to the appeal of the rejection of Claim 1 as being anticipated by the Corona '589 reference. There must be some logical reason apparent from positive, concrete evidence of record that justifies a combination of primary and secondary references. In re Laskowski, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397 (Fed. Cir. 1989). Herein, the Corona '589 does not include a sufficient teaching to serve as a satisfactory primary reference for combination with the cited secondary reference.

Attached hereto at Appendix A is a clean copy of Appellant's Appeal Brief including the foregoing changes to the Argument portion.

Date: Feb 6, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan R. Thiele", written over a horizontal line.

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Attachments



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APPELLANT'S APPEAL BRIEF
UNDER 37 C.F.R. 41.37

In response to the Notification of Non-Compliant Appeal Brief under 37 C.F.R. 1.192 dated January 11, 2007, Applicant submits the following corrected Appeal Brief under 37 C.F.R. 41.37.

Real Party in Interest (37 CFR 41.37(c)(1)(i))

Bluewater Energy Services, B.V.
Hoofddorp, The Netherlands

Related Appeals and Interferences (37 CFR 41.37(c)(1)(ii))

None

Status of Claims (37 CFR 41.37(c)(1)(iii))

The referenced patent application was filed with five (5) claims, one (1) independent claim, and four (4) dependent claims.

In the first Office Action, dated September 8, 2004, all five (5) pending claims were rejected.

In the response to the first Office Action, claim 3 was canceled, and claims 1, 2, 4, and 5 remained pending.

In the second Office Action, dated March 31, 2005, claims 1, 2, 4, and 5 were rejected.

In the response to the second Office Action, claims 1, 2, 4, and 5 remained pending.

In an Advisory Action, dated June 7, 2005, the Examiner indicated that the amendments made to the pending claims did not place the pending claims in a condition for allowance.

On July 29, 2005, a Request for Continued Examination was submitted.

Finally, on August 10, 2005, pending claims 1, 2, 4, and 5 were again rejected.

On October 4, 2005, during a telephone conference between the Examiner and the undersigned raising the arguments appearing in this Appeal Brief, the Examiner maintained his rejection of pending claims 1, 2, 4, and 5.

Accordingly, claims 1, 2, 4, and 5 remain pending, and the Applicants hereby appeal the rejection of pending claims 1, 2, 4, and 5.

Status of Amendments (37 CFR 41.37(c)(1)(iv))

No amendments have been submitted in response to the Office Action of August 10, 2005.

Summary of Claimed Subject Matter (37 CFR 41.37(c)(1)(v))

The claimed subject matter describes the construction of a buoy¹ which continuously floats on the sea surface. Such buoys¹ are often used in offshore locations over subsea oil reservoirs for connection to rigid steel catenary flow lines² rising upward from the sea bottom. The rigid steel subsea catenary flow lines² are used to conduct hydrocarbons from the subsea reservoirs to the floating buoy¹ on the sea surface. Tanker vessels³ operating on the sea surface connect flow lines to the floating buoy¹ to receive the hydrocarbons flowing through the catenary flow lines² and then carry these hydrocarbons to another location (see specification page 3, paragraph [0009] lines 1-7, and Figure 2)—typically an onshore refinery or a temporary storage location.

¹ The cylindrical hull portion of the first embodiment of the (CALM) buoy assigned reference number 120 in Figure 2 is described in the specification on page 3 in the paragraph designated [0011], in the lines numbered 19, and 21; then on page 4, in the paragraph designated [0011], in the lines numbered 19, and 21; then on page 4, in the paragraph designated [0012] in line 12. The cylindrical hull portion of the second embodiment of the (CALM) buoy assigned reference number 220 in Figure 3 is described on page 4 in the paragraph designated [0013], in the lines numbered 12, 14, 16, 17.

² The rigid steel catenary flow line assigned reference number 45 in Figure 1 is described in the specification on page 1, in the paragraph designated [0004], in the lines numbered 21 and 23; then on page 2, in the paragraph designated [0006] in lines 11 and 16.

³ The tanker vessel assigned reference number 40 in Figure 1 is described in the specification on page 1, in the paragraph designated [0004], in the lines numbered 18, and 22; then on page 2, in the paragraph designated [0006], in the line numbered 16.

The problem solved by the continuously floating buoy¹ of the present invention is the reduction of the wave and wind generated pitching and rolling of the floating buoy¹ connected to one or more rigid steel subsea catenary flow lines². This reduction of the pitching and rolling of the floating buoy¹ is important because the pitching and rolling of a floating buoy¹ attached to catenary flow lines causes metal fatigue in the catenary flow lines (see specification page 4, paragraph [0011] lines 2-4).

The solution to the problem of reduction of the pitching and rolling of the continuously floating buoy¹, which is described and claimed in the pending application, is obtained through constructing the continuously floating buoy¹ according to the elements described in claim 1. Specifically, the buoy¹ is constructed to include: a) a ballast compartment⁴ below the sea surface which moves the center of gravity of the continuously floating buoy¹ below the sea surface (page 3, line 1; page 4, lines 17-19; and Figure 2) and b) a ballast compartment⁴ design that works against the natural pitch-

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² The rigid steel catenary flow line assigned reference number 45 in Figure 1 is described in the specification on page 1, in the paragraph designated [0004], in the lines numbered 21 and 23; then on page 2, in the paragraph designated [0006] in lines 11 and 16.

⁴ The ballast compartment of the first embodiment assigned reference number 156 in Figure 2 is described in the specification on page 4, in the paragraph designated [0012] on line 8. The ballast compartment of the second embodiment assigned reference number 226 in Figure 3 is described on page 4 in the paragraph designated [0013] in the lines numbered 14 and 16.

and-roll periods of the continuously floating buoy¹ based on the design and size of the continuously floating buoy¹ (see specification page 3, paragraph [0009] lines 2-3).

The buoy appears in lines 3 and 5 of claim 1 and in claims 2, 4, and 5 by virtue of their dependency on claim 1. The rigid steal catenary flow line appears in claim 1, line 12 as “the means for providing a path for oil to travel from the subsea reservoirs to a tanker” and in claims 2, 4, and 5 by virtue of their dependency on claim 1. The tanker vessel appears in line 12 of claim 1 and in claims 2, 4, and 5 by virtue of their dependency on claim 1. The ballast compartment appears in lines 7 and 9 of claim 1, line 2 of claim 2, in claim 4 by virtue or its dependency on claim 1 , and in line 2 of claim 5.

Grounds Of Rejection To Be Reviewed On Appeal (37 CFR 41.37(c)(1)(vi))

(Issue No. 1) Whether U.S. Patent No. 5,431,589 to Corona sufficiently teaches the limitations of a buoy which continuously floats on the sea surface with a ballast compartment that works against the natural pitch and roll of the floating buoy to anticipate the disclosed invention described in Claim 1 under 35 USC 102.

(Issue No. 2) Whether U.S. Patent No. 5,431,589 (primary reference) is properly combined with U.S. Patent No. 4,501,525 to Grundy et al. (secondary reference) to sufficiently teach a continuously floating buoy wherein:

- a. the ballast compartment is filled with sea water as described in Claim 2;

¹ The cylindrical hull portion of the first embodiment of the (CALM) buoy assigned reference number 120 in Figure 2 is described in the specification on page 3 in the paragraph designated [0011], in the lines numbered 19, and 21; then on page 4, in the paragraph designated [0011], in the lines numbered 19, and 21; then on page 4, in the paragraph designated [0012] in line 12. The cylindrical hull portion of the second embodiment of the (CALM) buoy assigned reference number 220 in Figure 3 is described on page 4 in the paragraph designated [0013], in the lines numbered 12, 14, 16, 17.

b. the hull portion of the continuously floating buoy is sized to have a diameter greater than two times its height as described in Claim 4; and

c. the ballast compartment is designed to be substantially cylindrical as described in Claim 5;

to render Claims 2, 4, and 5 obvious under 35 USC 103.

Argument (37 CFR 41.37(c)(1)(vii))

Rejection of Claim 1 under 35 USC 102 (Issue No. 1)

The position of the applicant is that the Corona '589 reference which forms the basis of the rejection under 35 USC 102 neither teaches nor anticipates a continuously floating buoy which is constructed to minimize natural pitch and roll periods while the buoy is floating on the sea surface. Rather, it is the position of the appellant that the Corona '589 reference teaches a buoy which simply avoids the problem of dealing with wind and wave forces by going underwater.

Accordingly, the appellant believes that the interpretation of the teachings of the Corona '589 reference by the U.S. Patent and Trademark Office is in error. The inventors named in the instant application discovered that the problem of dealing with wind and wave forces could be confronted with a structural design solution rather than with a solution which allowed the buoy to remain on the sea surface treating the buoy like a submarine; that is going up and down by the filling and the emptying of floatation compartments. Thus, the instant pending patent application teaches an approaching to dealing with wind and wave forces and found in the Corona '589 reference.

35 U.S.C. 102 anticipation requires identity of invention. Specifically, the claimed invention, as described in appropriately construed claims, must be the same as that of a cited reference in order for the cited reference to anticipate the claimed invention. Glaverbel Société Anonyme v. Northlake Marketing & Supply, Inc., 45 F.3d 1550, 1554, 33 U.S.P.Q.2d 1496, 1498 (Fed. Cir. 1995).

A close reading of the Corona '589 reference reveals that the prior art solution to the problem of reducing the pitching and rolling of the floating buoy is to cause the entire buoy to move underwater below the sea surface in rough wind and sea conditions. Such movement of the buoy below the sea surface takes the buoy taught by the Corona '589 reference out of service. Specifically, the following extracts from the Corona '589 reference teach the up-and-down (floating-submerged) motion of the buoy described in the Corona '589 reference. This up and down motion of the buoy does not anticipate the elements which appear in claim 1 of the instant application. Key words appear in italics.

“The body 26 has a *controllable buoyancy*, as will be described in further detail herein....” (col. 3, lines 41-42)

“Figure 2 shows the buoy 16 in an *alternate submerged* position, as indicated by the dashed lines, when not in use and in severe sea state conditions, ice accumulation and ice movement are experienced in the anchorage 10.” (col. 4, lines 3-7)

“Operation of the buoy 16 to *move between a floating and submerged condition* as carried out by a combined operation of floating suitable ballast compartments within the buoy....” (col. 4, lines 30-33)

“Suitable controls, not shown, may be operated to control the flooding of tanks or compartments 168, 170, 172 and 174 as well as additional ballast tanks 160, 162 and 166, if needed, to control the buoyancy and stability of the buoy 16 as it *moves between a working position on the surface 17 and the submerged position.*” (col. 7, lines 35-42)

In pending independent claim 1 in the instant application, the continuously floating buoy is described as being “non-submersible.” The Corona ‘589 reference teaches a buoy which is taken out of service to a submerged location beneath the sea surface whenever rough wind and sea conditions occur.

Further in pending independent claim 1, the buoy is described as being constructed “for continuous flotation” on the sea surface. The Corona ‘589 reference teaches a buoy designed for intermittent flotation on the sea surface.

The limitations of being “non-submersible” and designed “for continuous flotation” on the sea surface are not described in the Corona ‘589 prior art reference relied upon to reject the pending claims. Accordingly, because claim 1 describes a buoy which continuously floats on the sea surface and does not use submersion as the technique for reducing pitch and roll, claim 1 is not anticipated by the Corona ‘589 reference, as the claimed invention is not the same as the buoy taught by the Corona ‘589 reference.

Rejection of Claims 2, 4, and 5 under 35 USC 103 (Issue No. 2)

Regarding claims 2, 4, and 5, it is the position of the applicant that the Corona '589 primary reference does not provide a proper starting place to begin building a set of references to reject claims 2, 4, and 5 as being taught by a combination of the Corona '589 (primary) reference with the Grundy et al. '525 (secondary) reference. The reasons for this argument are set forth above with regard to the appeal of the rejection of Claim 1 as being anticipated by the Corona '589 reference. There must be some logical reason apparent from positive, concrete evidence of record that justifies a combination of primary and secondary references. In re Laskowski, 871 F.2d 115, 117, 10 U.S.P.Q.2d 1397 (Fed. Cir. 1989). Herein, the Corona '589 does not include a sufficient teaching to serve as a satisfactory primary reference for combination with the cited secondary reference.

Claim Appendix (37 CFR 41.37 (c)(1)(viii))

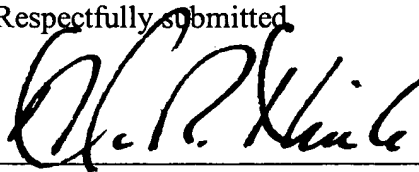
A clean copy of the pending claims is attached hereto at Tab A.

Evidence Appendix (37 CFR 41.37 (c)(1)(ix))

There is no Evidence Appendix to this Appeal Brief.

Date: February 15, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. R. Thiele", written over a horizontal line.

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Attachments

APPENDIX "A"

Replacement Sheet

CLEAN COPY OF AMENDED CLAIMS

WHAT IS CLAIMED IS:

1 1. *(Twice amended)* A system for stabilizing a floating catenary anchor leg mooring
2 system used in the production of oil from subsea reservoirs comprising:

3 a non-submersible hollow buoy assembly for continuous floatation on the sea
4 surface;

5 said non-submersible hollow floating buoy assembly including a cylindrical hull
6 portion having a center of gravity which is below the sea surface;

7 said cylindrical hull portion further including a ballast compartment having a
8 portion below the sea surface;

9 said ballast compartment being constructed and arranged to adjust the natural
10 pitch and roll periods of said non-submersible hollow buoy assembly to reduce pitch and
11 roll in response to wind and wave forces;

12 means for providing a path for oil to travel from the subsea reservoirs to a tanker.

1 2. *(Previously amended)* The system for stabilizing a floating catenary anchor leg
2 mooring system as defined in Claim 1 wherein said ballast compartment is constructed and
3 arranged to be filled with sea water.

1 3. *(Canceled)*

1 4. *(Previously amended)* The system for stabilizing a floating catenary anchor leg
2 mooring system as defined in Claim 1 wherein said cylindrical hull portion has a diameter which
3 is greater than two times its height.

1 5. *(Previously amended)* The system for stabilizing a floating catenary anchor leg
2 mooring system as defined in Claim 4 wherein said ballast compartment is substantially
3 cylindrical and follows the circumference of said cylindrical hull portion.



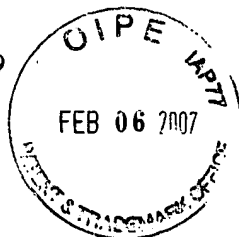
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,651	01/16/2004	Jaap De Baan	33474-00007USPT	8049

7590 01/11/2007

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INTELLECTUAL PROPERTY

JAN 16 2006

JENKENS & GILCHRIST

EXAMINER

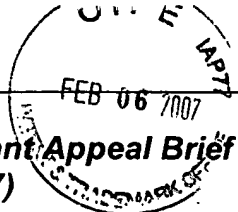
ART UNIT PAPER NUMBER

DATE MAILED: 01/11/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

TRANSFERRED TO: A. Thiele - Strasburg
DATE: 3.17.04
REVIEWED BY: J. [Signature]

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**



Application No.

10/759,651

Applicant(s)

BAAN ET AL.

Examiner

Jesus Sotelo

Art Unit

3617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 01 December 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

6. Arguments: This section should include a separate heading for each grounds of rejection listed in section VI. It may include headings for claims argued separately. The brief should also include the statutes and references with respect to the grounds of rejection presented.

Leneetha L. Dyar
Patent Appeal Center Specialist